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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,558	02/14/2005	Frank Bosse	P70339USO	1030
136 7590 05/15/2009 JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004				
EXAMINER				
THROWER, LARRY W				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
05/15/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/524,558

Applicant(s)

BOSSE, FRANK

Examiner

LARRY THROWER

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-9 and 11 is/are pending in the application.
- 4a) Of the above claim(s) 6-9 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4 and 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 7, 2009 has been entered.

Response to Amendment

2. The specification is amended to remove the previously added paragraphs. Claims 1 and 6 are amended; claims 6-9 and 11 are withdrawn; claims 1, 4 and 5 are under examination.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1 and 4** are rejected under 35 U.S.C. 102(b) as being anticipated by Dellbruegge (DE 19501668; paragraph references to the machine translation).

- Regarding **claim 1**, Dellbruegge discloses a process for the preparation of sheets (¶1; fig. 1). The process includes extruding a film tube (10; ¶2), laying the extruded film tube flat (¶2), cutting the flattened film tube in a conveying direction thereof to provide a first and second sheet (¶5, fig. 1), squeezing the first and second sheets (¶2; squeeze rollers 16), and performing a reversing operation such that parts of the surface of at least one of the sheets come into contact (figure 1), the surfaces that come into contact with each other being those that formed an interior surface of the film tube (note: the interior surfaces come into indirect contact with each other as the interior side of one sheet is laid on the exterior side of the other sheet as they are transported through a reversing device (30, 32, 34, 36)).
- Regarding **claim 4**, Dellbruegge discloses the sheets being prepared with at least one sticky surface by extruding the film tube with at least one sticky outer surface (¶5).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1 and 4-5** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoene *et al.* (US 2002/0048617) in view of Dellbruegge (DE 19501668; paragraph references to the machine translation).

- Regarding **claim 1**, Hoene *et al.* discloses a process for the preparation of tube webs (abstract). The process includes extruding a film tube (§28), laying the extruded film tube flat (§28), and squeezing the film tube (abstract; figure; squeezing rolls 9), and performing a reversing operation such that the inner parts of the surfaces of the film tube come into contact, the surfaces that come into contact with each other being those that formed an interior surface of the film tube (figure).
- Hoene *et al.* fails to disclose the flattened film tube being cut in a conveying direction to provide a first and second sheet. However, Dellbruegge discloses a process for the preparation of sheets which includes extruding a film tube (10; §2), laying the film tube flat and squeezing it (§2; squeeze rollers 16), cutting the extruded film tube in the conveying direction of the tube to provide first and second sheets (§5; fig. 1), and reversing the cut sheets (fig. 1). As taught by Dellbruegge, arranging knives on opposite sides of the film tube allows the flattened tube to be cut such that two sheets are formed (§5). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the process of preparing tube webs of Hoene *et al.* with the knives of Dellbruegge to slit the film tube such that two sheets are formed.
- Regarding **claim 4**, Dellbruegge discloses the sheets being prepared with at least one sticky surface by extruding the film tube with at least one sticky outer surface (§5).
- Regarding **claim 5**, Dellbruegge discloses the film tube having a sticky external surface (§5), and Hoene *et al.* discloses that during the reversing operation only

surfaces of the web that had formed the internal surface of the film tube contact each other (figure).

Response to Arguments

7. Applicant's arguments filed May 7, 2009 have been fully considered but they are not persuasive.

- Applicant traverses the restriction requirement and argues that the common technical feature of the two groups of claims is not known in the prior art. This argument has been considered but is not persuasive. The common technical feature in both groups is extruding a film tube, laying the extruded film tube flat, cutting the flattened film tube in a conveying direction thereof to provide a first and a second sheet, squeezing the first and second sheets, and performing a reversing operation such that parts of the surfaces of at least one of the sheets come into contact, the surfaces that come into contact with each other being those that formed an interior surface of the film tube. This cannot be a special technical feature under PCT Rule 13.2, because the elements are known in the prior art. Dellbruegge (DE 19501668; paragraph references to the machine translation) discloses extruding a film tube (10; ¶12), laying the extruded film tube flat (¶12), cutting the flattened film tube in a conveying direction thereof to provide a first and second sheet (¶15, fig. 1), squeezing the first and second sheets (¶12; squeeze rollers 16), and performing a reversing operation such that parts of the surface of at least one of the sheets come into contact (figure 1), the surfaces that come into contact with each other being

those that formed an interior surface of the film tube (the interior surfaces come into indirect contact with each other as the interior side of one sheet is laid on the exterior side of the other sheet as they are transported through a reversing device (30, 32, 34, 36)).

- Applicant further argues that the difference between the instant invention and Dellbrugge is that "...in Dellbrugge's process, the interior surfaces of the film tube *do not contact each other* after the flattening of the film tube," and that claim 1 requires the interior surfaces of the tube to come "...into contact with each other" (emphasis in Applicant's response). This argument has been considered but is not persuasive. In Dellbrugge's process, the interior surfaces come into indirect contact with each other as the interior side of one sheet is laid on the exterior side of the other sheet as they are transported through a reversing device. Applicant has failed to distinguish the language of the claims over the teachings of the prior art.
- Applicant further argues that the concept of indirect contact is unclear. As explained in *Turbocare Division of Demag Delaval Turbomachinery Corporation v. General Electric Company*, objects that are in indirect contact refers to "... objects that do not touch one another but have other objects interposed between them. In the absence of a special definition of the term 'contact' in the specification, that term should be given its ordinary and accustomed meaning" 264 F.3d 1111 (Fed. Cir. 2001). In the process of Dellbrugge, the interior surfaces come into indirect contact with each other as the interior side of one sheet is laid on the exterior side of the other sheet

as they are transported through a reversing device, thereby meeting the requirement in claim 1 that the interior surfaces come into contact with each other.

- Applicant finally argues that because Hoene does not disclose sticky film layers, a person of ordinary skill in the art "...would never take the teaching of Hoene into account." This argument has been considered but is not persuasive. Both Hoene and Dellbruegge disclose processes for the preparation of tube webs, where Dellbruegge cures the deficiencies of Hoene by teaching the arrangement of knives and the sticky surface, as described in the previous Office action. One of ordinary skill in the art would have motivated to combine the two references at the time the invention was made because of the art-recognized need for sheets having adhesive layers, as explicitly taught and solved by Dellbruegge (§3).

Conclusion

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LARRY THROWER whose telephone number is 571-270-5517. The examiner can normally be reached on Monday through Friday from 9:30AM-6PM est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina A. Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Larry Thrower/
Examiner, Art Unit 1791

/Christina Johnson/
Supervisory Patent Examiner, Art Unit 1791